RELEASE OF REVERSIONARY INTEREST OF THE UNITED STATES IN CERTAIN LANDS IN ARKANSAS

HEARING

BEFORE THE

SUBCOMMITTEE ON FORESTRY, WATER RESOURCES, AND ENVIRONMENT

OF THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

H.R. 3881

AN ACT TO DIRECT THE SECRETARY OF AGRICULTURE TO RELEASE ON BEHALF OF THE UNITED STATES A REVERSIONARY INTEREST IN CERTAIN LANDS CONVEYED TO THE ARKANSAS FORESTRY COMMISSION, AND TO DIRECT THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN MINERAL INTERESTS OF THE UNITED STATES IN SUCH LANDS TO SUCH COMMISSION

JULY 22, 1982

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CONTENTS

	Page
Hayakawa, Hon. S. I., a U.S. Senator from California, opening statement	1
Pryor, Hon. David H., a U.S. Senator from Arkansas	1

CHRONOLOGICAL LIST OF WITNESSES

Cargill, Gary E., Associate Deputy Chief, Forest Service, U.S. Department of Agriculture	3

APPPENDIX

Anthony, Hon. Beryl, Jr., Representative in Congress from the Fourth District of Arkansas, prepared statement	5
Mety, Michael P., State forester, Arkansas Forestry Commission, letter dated June 23, 1982, to Senator Pryor	6
H.R. 3881	6

RELEASE OF REVERSIONARY INTEREST OF THE UNITED STATES IN CERTAIN LANDS IN ARKANSAS

THURSDAY, JULY 22, 1982

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, SUBCOMMITTEE ON FORESTRY, WATER RESOURCES, AND ENVIRONMENT,

Washington D.C.

The subcommittee met, pursuant to notice, in room 324, Russell Senate Office Building, at 10 a.m., Hon. S. I. Hayakawa (chairman of the subcommittee) presiding.

Present: Senator Hayakawa.

Also present: Senator Pryor.

STATEMENT OF HON. S. I. HAYAKAWA, A U.S. SENATOR FROM CALIFORNIA

Senator HAYAKAWA. The Subcommittee on Forestry, Water Resources, and Environment will come to order.

On behalf of the members of the subcommittee, I would like to welcome all of you here today. The purpose of this hearing is to consider H.R. 3881,[1] the "Release of Reversionary Interest of the United States in Certain Lands in Arkansas."

I believe that we have two witnesses scheduled for this hearing, Senator Pryor of Arkansas, with whom I have the pleasure of serving on the full Committee on Agriculture, Nutrition, and Forestry, and also Gary E. Cargill, the Associate Deputy Chief of the Forest Service. We welcome both of you here today.

Before we begin with testimony from Senator Pryor, I want to mention that the committee has received written testimony from Congressman Beryl Anthony of Arkansas, and from the Arkansas Forestry Commission.[2] Without objection, these statements will be placed in the hearing record.

Senator Pryor, would you like to begin?

STATEMENT OF HON. DAVID H. PRYOR, A U.S. SENATOR FROM ARKANSAS

Senator PRYOR. Thank you, Senator Hayakawa.

I would like at the outset to express to you my sincere thanks for convening this hearing on H.R. 3881. I would like to also thank

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[1] See p. 6 for the text of H.R. 3881.

[2] See p. 5 for the prepared statement of Hon. Beryl Anthony of Arkansas and p. 6 for the statement of the Arkansas Forestry Commission.

Senator Helms, the chairman of this committee, as well as the very fine staff of the committee for assuring referral of this legislation to the Agriculture Committee in order to expedite consideration of the bill.

Also, I would like to take this opportunity to commend my colleague from the Arkansas congressional delegation, Congressman Beryl Anthony, who introduced this bill and guided it through two House committees to its approval by the House of Representatives on May 17, 1982. Congressman Anthony deserves the thanks of the people of our State and the Nation for his efforts.

I should also commend and thank the Arkansas Forestry Commission, whose cooperation and support has been critical to efforts to secure approval.

H.R. 3881 concerns an 80-acre tract of land in the Poison Springs State Forest in Arkansas. The land is part of the 19,440 total acres in the forest, all of which was conveyed to the Arkansas Forestry Commission by the Secretary of Agriculture under the Bankhead-Jones Act The conveyance provides that the tract would revert to the United States if it ceases to be used for public purposes.

The commission wishes to be allowed to exchange the 80-acre parcel for an equal acreage of private land, in order to assemble lands suitable for expanding production of pine seedlings for reforestation purposes. Such an exchange cannot be accomplished unless the reversionary rights of the United States are released

As introduced, the bill would have directed the Secretary of Agriculture to release the reversionary clause from the entire forest. It would also have allowed the Arkansas Forestry Commission to apply to the Secretary of the Interior for conveyance of all or part of the mineral interests.

There have been two changes made during consideration of the bill by the House of Representatives Agriculture and Interior Committees. First, the bill was amended to apply only with respect to lands specified in an agreement to be entered into between the Secretary of Agriculture and the Arkansas Forestry Commission. In any proposed exchange, the Secretary is required to secure an equivalent parcel of land with approximately the same market value as that being transferred.

Second, the bill was amended to require the Secretary of the Interior to convey the mineral rights pertaining to the proposed 80-acre tract. Disposal of mineral rights on other areas of the State forest in which reversionary interest remains with the United States is left to the Secretary of the Interior under the Federal Land Policy and Management Act of 1976.

This bill addresses the present and future needs of the Arkansas Forestry Commission, the interests of the Federal Government, and contributes to the Nation's supply of wood and paper in the future. I urge that it be reported favorably by the subcommittee and the committee, and from the committee to the floor of the Senate as soon as possible.

With that, I conclude my statement, Mr. Chairman, and once again express to you my sincere thanks. Also, Mr. Chairman, I do have a letter indicating the support and the endorsement of this legislation from the Arkansas Forestry Commission, dated June 23, 1982, addressed to me, and I would, Mr. Chairman, like unanimous

consent from this subcommittee to include this letter at the appropriate part of the record.

Senator HAYAKAWA. If I understand correctly, Senator Pryor, this land which you are getting in the exchange is for the purposes of seedlings for reforestation?

Senator PRYOR. That is correct, Mr. Chairman.

Senator HAYAKAWA. And you will grow seedlings there which will be distributed throughout the State for reforestation?

Senator PRYOR. That is correct.

Senator HAYAKAWA. So it is an economical process?

Senator PRYOR. It is very economical, and I think that the State would gain from this legislation. I think that fairness would certainly prevail in any transfer of lands under this proposal, and all parties would not only be fully protected, but all parties to this matter are in total agreement that this procedure should take place.

Senator HAYAKAWA. Thank you, Senator Pryor.

Mr. Cargill, H.R. 3881 seems like a straightforward bill as it passed the House. Would you like to present your testimony?

STATEMENT OF GARY E. CARGILL, ASSOCIATE DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. CARGILL. Thank you, Mr. Chairman.

We appreciate the opportunity to present the Department of Agriculture's views on H.R. 3881. We have no objection to the enactment of this bill. Our concerns with the bill have been addressed by the House.

This bill is similar to several bills which Congress has considered over the last several years. It deals with Federal lands conveyed to the State of Arkansas under the provisions of title III of the Bankhead-Jones Farm Tenant Act of 1937. That act authorizes the Secretary of Agriculture to sell, exchange, lease, or otherwise dispose of Federal land that was acquired under the act for the purpose of land conservation. The act requires that the deed conveying these lands must specify that the land be used only for public purposes and if it ceases to be used in that manner, it shall revert to the United States. H.R. 3881 directs the Secretary to release this "public purpose reverter clause" from a portion of a conveyance made to the State of Arkansas under a quitclaim deed made in 1980.

The southern Arkansas land utilization project, located in Nevada and Ouachita Counties, was one of some 258 land utilization projects in 45 States. These were established on 11.3 million acres of land acquired by the Federal Government from 1933 to 1946. The project consists of 19,442.84 acres and is now the Poison Springs State Forest administered by the Arkansas Forestry Commission.

The Secretary of Agriculture entered into an agreement with the State of Arkansas in 1957 to sell the project land. The sale price was $1,396,465, or $72 per acre. The sale price included a 30-percent discount to recognize the reservation of minerals by the United States and the reversionary clause. Final payment was

made in 1979, and the land was conveyed by quitclaim deed on February 11, 1980.

The bill would require that the land involved in removal of the reverter and the conditions to be applied would be covered by and described in an agreement between the Secretary and the State. It is our understanding that the Arkansas Forestry Commission desires to exchange 80 acres of the State forest with a private party so that a tree seed orchard, producing genetically superior tree seed, can be expanded. The property received from the private party would acquire the same status as the property being exchanged—it would be used exclusively for public purposes. We believe that the interests of the United States would be protected in this arrangement.

We note the bill contains specific direction regarding disposition of the mineral values on the property. We defer to the Department of the Interior's views on the adequacy of those provisions. We note, however, that action by the House incorporated some of the suggestions by that Department regarding this language.

This concludes my formal statement. I would be happy to respond to your questions.

Senator HAYAKAWA. Thank you, Mr. Cargill.

I do want to thank everyone for being here today for this hearing on H.R. 3881. I do not believe there is much left to say about this bill. It is not a complex one. I think all questions have been answered. It has been referred to four committees in its legislative journey through Congress, and four markups have already been held on this bill in the House. That is an awful lot of coverage for a little bill.

There does not seem to be any problem with H.R. 3881. Therefore, I think we should be able to move the bill out of this subcommittee for consideration by the full committee.

Senator PRYOR. Mr. Chairman, may I also add that Senator Bumpers, who could not be present today, has in the hearing room one of his staff members, and Senator Bumpers has just conveyed to me his support for this legislation.

Senator HAYAKAWA. I am very glad to hear that.

Senator PRYOR. And there is one caveat, because you are considered in the Senate one of the real historians, and a man of great learning. I thought I might just add for the benefit of Senator Hayakawa and the Department of Agriculture a little story about Poison Springs.

Poison Springs State Forest is part of Nevada County and Ouachita County—Ouachita County is my home county. When I was a freshman member of the State legislature I offered legislation to create a portion of this State forest as a State park. This is the scene of a Civil War battle between the North and the South, and there was a period of time, only 20 miles away—or about 18 miles away, to be more precise—when Northern troops occupied the city of Camden, my home town, and Poison Springs was one of the scenes of the major skirmishes, or battles, of my State.

There is a great mystery surrounding the Poison Springs battle because many of the troops who drank from the springs died mysteriously, and this is how the name "Poison Springs" came about.

I thought for your own edification, a man who is leaving the Senate, but never ceases to learn, I thought that that would be one little tidbit of history that you can carry with you.

Senator HAYAKAWA. Thank you very much, Senator Pryor. I shall avoid drinking from Poison Springs.

Senator PRYOR. Don't drink from it.

Senator HAYAKAWA. Thank you very much.

If there are no further comments from anyone here, the meeting is adjourned.

[Whereupon, at 10:15 a.m., the subcommittee adjourned, subject to the call of the Chair.]

[The following was received for the record:]

PREPARED STATEMENT OF HON. BERYL ANTHONY, JR., REPRESENTATIVE IN CONGRESS FROM THE FOURTH DISTRICT OF ARKANSAS

Mr. Chairman, I appreciate your interest in convening this hearing on H.R. 3881. I introduced this legislation last year at the request of the Arkansas Forestry Commission and it passed the House on May 17, 1982.

The bill, if it becomes law, will facilitate the efforts of the Arkansas Forestry Commission to promote and expand the private production of pine seedlings in the state. It is generally acknowledged in the forestry industry that more must be done to provide for future forest product needs and this legislation will help achieve that goal.

The bill provides for release of reversionary interests of the United States in the Poison Springs State Forest, which was conveyed to Arkansas by the United States in 1957. In the deed, the United States reserved all mineral righs and a clause in the deed requires reversion to the United States if the lands are used for other than public purposes. Eighty acres of land in the State Forest are adjacent to a privately-owned pine seedling nursery which are needed for the expansion of that facility. The bill would release the reversionary clause and would transfer mineral rights on the 80 acres under certain specific conditions set forth in the bill. This would then enable the commission to transfer ownership of the 80-acre tract to the company seeking to expand the nursery facility. The Arkansas Forestry Commission would receive another tract of equal size and value in exchange.

The bill was considered by both the House Agriculture Committee and the House Interior Committee. The bill directs the Secretary of Agriculture to release the reversionary clause when the following conditions are met to the satisfaction of the Secretary. The Commission cannot exchange the property unless the fair market value is acquired in exchange. Property received in exchange must be used for a public purpose and the Commission cannot dispose of the lands unless the proceeds are held for inspection by the Secretary of Agriculture. All lands subject to transfer must be specified in a mutual agreement between the Secretary of Agriculture and the State Forestry Commission.

Section 2 of the bill pertains to the transfer of mineral rights on the 80-acre tract proposed for transfer to private ownership. The Commission is authorized to apply to the Secretary of Interior for transfer of the mineral rights on the 80-acre tract. The Secretary of Interior cannot transfer the mineral interests unless administrative costs are paid by the Commission and unless consideration is received for the transfer. If the land is determined by the Secretary of Interior to have no mineral value and no active mineral leases, the Commission is required to pay $1 to the Secretary of Interior for conveyance. The fair market value is required when minerals are determined to exist.

Disposal of all mineral interests other than the 80 acres, will be governed by provisions of existing law including the Federal Land Policy and Management Act of 1976.

Mr. Chairman, this bill would help to achieve a needed public purpose in supplying future forest product needs. It fully protects the interests of the United States and it removes all obstacles facing the Arkansas Forestry Commission in achieving the goal of expanding the availability of pine seedlings in the state of Arkansas. I urge you and your Committee to give it your full support.

ARKANSAS FORESTRY COMMISSION,
Little Rock, Ark., June 23, 1982.

Hon. DAVID PRYOR,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PRYOR: This is in reference to my recent conversation with Mr. Knox Walkup of your office, concerning the Poison Springs State Forest located in Ouachita and Nevada Counties in Arkansas.

The State Forest is comprised of 19,442 acres and was acquired from the Federal Government by Agreement of Sale dated April 12, 1957, (copy attached as Exhibit A). The lands purchased were all within the Southern Arkansas Land Utilization Project designated as AK-LU-22. The indenture period for the sale was to be for twenty-five (25) years and the property was to be paid for by July 1, 1982.

The Forestry Commission paid for the property according to the Agreement of Sale and obtained a deed for same on February 11, 1980, which was slightly over two years ahead of schedule, (copy attached as Exhibit B).[1]

Recently the International Paper Company established a tree seedling nursery on their properties adjacent to State Forest lands in Nevada County. This facility is welcomed by the Forestry Commission since it will alleviate an annual demand for several million industrial seedlings from Commission nurseries, and allow the Commission to furnish more seedlings to private non-industrial landowners.

The International Paper Company nursery has been quite a successful operation and they now desire to expand their operation by an additional eighty (80) acres. In this regard, the Forestry Commission owns the only lands suitable for their expansion.

The Forestry Commission does not object to a transaction which allows either a trade or sale of such lands. However, the deed (Exhibit B), contains a reversion clause which states that when the lands cease to be used for public purposes they shall revert to and become revested in the grantor.

With this in mind, we contacted the U.S. Forest Service State and Private Forestry Division in Atlanta, Georgia for assistance. We were advised that a special Act of Congress would be required to allow an exchange of Poison Springs State Forest lands. We asked for copies of Acts enacted by other states for similar situations and they are enclosed as follows:

Exhibit C—AK-LU-5—DeValls Bluff, Arkansas—LUP.
Exhibit D—KY-LU-1—Kentucky Ridge State Forest.
Exhibit E—SC-LU-3—Clemson College—LUP.

We are of the opinion that it would be to the advantage of the Arkansas Forestry Commission, and the State of Arkansas, to have a release of the reversion clause now binding on the State Forest lands.

We therefore are respectfully requesting that consideration be given to the introduction in Congress of a special act that would allow sale and/or exchange of State Forest lands, with specific reference to the enclosed Exhibit C which deals with a similar request of the Arkansas Game and Fish Commission during 1972.

Should additional information be needed, we will furnish as desired.

Sincerely,

MICHAEL P. METY, *State Forester.*

[H.R. 3881, 97th Cong., 2d sess.]

AN ACT To direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a)(1) Subject to subsection (b), the Secretary of Agriculture shall release on behalf of the United States, with respect to lands within the Southern Arkansas Land Utilization Project (AK-LU-22) conveyed by the United States to the Arkansas Forestry Commission (hereinafter referred to as the "Commission") by a quitclaim deed dated February 11, 1980, the condition in such deed which requires that such lands be used for public purposes, and if not used, that the lands revert to and revest in the United States.

(2) Section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) shall not apply to the release authorized in paragraph (1).

(b) The Secretary of Agriculture shall release the condition referred to in subsection (a)(1) only with respect to lands covered by and described in an agreement or

[1] Exhibits A–E referred to above have been retained in committee files.

agreements entered into between the Secretary and the Commission in which the Commission, in consideration of the release of such condition as to such lands, agrees that—

(1) the Commission will not exchange any parcel or tract of the lands referred to in subsection (a)(1), or any mineral or other interest in any such parcel or tract for other property (real or personal) unless—

(A) the fair market value of such property is approximately equal to the fair market value of such parcel or tract or interest therein, and

(B) after such exchange, such property will be used exclusively for public purposes, and

(2) the Commission will not sell, lease, or otherwise dispose of any parcel or tract of such lands or any mineral or other interest in any such parcel or tract unless the proceeds thereof are—

(A) deposited and held in an account open to inspection by the Secretary of Agriculture, and

(B) used, if withdrawn from such account, exclusively for public purposes within the authority of the Commission, and

(C) equal to the fair market value of the fee, leasehold, interest in such parcel or tract, or other property right which is the subject of such sale, lease, or other disposition.

SEC. 2. (a) Subsequent to any release executed by the Secretary of Agriculture under section 1, with respect to lands in Nevada County, Arkansas, described as the southeast quarter southwest quarter and southwest quarter southeast quarter, section 27, township 12 south, range 20 west (aggregating 80 acres more or less) the Commission may apply to the Secretary of the Interior seeking to acquire all the undivided mineral interests of the United States in the lands to which such release applied, and the Secretary of the Interior shall, subject to valid existing rights and subject to subsection (b), convey such mineral interests as requested.

(b) The Secretary of the Interior shall not convey the undivided mineral interests of the United States in any lands as requested in an application filed by the Commission under subsection (a) unless—

(1) such application is accompanied by a sum of money which the Secretary of the Interior determines is necessary to pay the administrative costs involved in conveying such mineral interests to the Commission, including the costs of determining the mineral character of such lands and the costs of establishing the fair market value of such mineral interests, and

(2) the Commission, in consideration of such conveyance, pays to the Secretary of the Interior—

(A) $1, in the case of any such lands determined by the Secretary of the Interior to have no mineral value and to be under no active mineral development or leasing, or

(B) the fair market value of such mineral interests (as determined by the Secretary of the Interior), in the case of any such lands not subject to subparagraph (A).

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